

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAHFUJUR RAHMAN AND LITON SHAH,

Plaintiffs,

v.

RED CHILI INDIAN CAFÉ, INC.,
MOHAMMED MOJNU MIAH a/k/a SHEIKH
MOHAMMED MOJNU, AND NOOR ISLAM
a/k/a MOHAMMED HARUN MIAH,

Defendants.

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No. 17-CV-5156 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Plaintiffs Mahfujur Rahman and Liton Shah filed this action against Defendants Red Chili Indian Cafe, Inc. (“Red Chili”), Mohammed Mojnu Miah, and Noor Islam, seeking relief under the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”). On September 22, 2017, Defendants Miah and Islam (the “Individual Defendants”), proceeding *pro se*, filed a Joint Answer and Affirmative Defenses, which was subsequently stricken, *see* Dkts. 61, 66, and then reinstated, *see* Dkt. 92. Defendant Red Chili never answered or otherwise appeared in this action, despite being advised several times that “a corporation may not appear in a lawsuit against it except through an attorney, and that, where a corporation repeatedly fails to appear by counsel, a default judgment may be entered against it” pursuant to Federal Rule of Civil Procedure 55. *See Grace v. Bank Leumi Trust Co. of N.Y.*, 443 F. 3d 180, 192 (2d Cir. 2006) (citation omitted); *see also, e.g.*, Dkts. 28, 30, 34, 42, 66, 88, 90.

Plaintiffs moved for a default judgment against all Defendants on January 3, 2020. *See* Dkt. 71. On February 10, 2020, the Court held a conference ordering the defaulting Defendants

to show cause as to why a default judgment should not be entered in favor of Plaintiffs. In light of the fact that the Individual Defendants appeared at that conference, the Court denied Plaintiffs' motion for a default judgment on February 26, 2020, and gave Defendant Red Chili "one more opportunity to find counsel to represent it in this action, which it must, given that a corporation may not proceed *pro se*." See Dkt. 88. The Court also advised Defendant Red Chili that if it did not obtain representation and file a responsive pleading by April 27, 2020, the Court would grant Plaintiffs' motion for default judgment against it. See *id*.

On April 28, 2020, Magistrate Judge Moses held a telephonic conference with all parties. Although Plaintiffs appeared through counsel and the Individual Defendants appeared *pro se*, Defendant Red Chili did not appear at the conference, and the Individual Defendants "confirmed that Red Chili had no counsel to represent it." See Dkt. 97 at 1 & n.1. Accordingly, Plaintiffs' motion for a default judgment against Defendant Red Chili Indian Café, Inc. is hereby granted. Because the case against the Individual Defendants is ongoing, the Court defers ruling on damages at this time.

Plaintiffs shall serve a copy of this Order on Defendants and file proof of service on the docket.

SO ORDERED.

Dated: April 30, 2020
New York, New York



RONNIE ABRAMS
United States District Judge